UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,033	02/12/2002	Alvin Koningsberg		7515

7590	01/26/2006			

Steven Horowitz
Couselor At Law
Suite 700
295 Madison Avenue
New York, NY 10017

EXAMINER
KOPPIKAR, VIVEK D

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/075,033	KONINGSBERG, ALVIN
	Examiner	**Art Unit**	
	Vivek D. Koppikar	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **3** MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *12 February 2002*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-16* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-16* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All   b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/17/03*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

Status of the Application

1.   Claims 1-16 have been examined in this application. The Information Disclosure

Statement (IDS) statement filed on January 17, 2003 has also been acknowledged.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Medisavers.com (published on September 19, 2000--see printout).

(A)   As per claim 1, Medisavers teaches a method of operating a health care savings plan

without a monthly fee by a plan owner that acts as a vendor in relation to a credit card company,

comprising (Medisavers: Page 2):

configuring the plan to serve a plurality of health care service providers who have

mutually agreed to participate in the plan by providing health care services at a specified

discounted price for specified services, have agreed to sign a respective plurality of uniform

provider agreements that state the amount of the discounted price for the specified services and

have agreed to provide identification data either in their own right as health care providers or for

individual health care providers under their administrative control, which identification data will

be made available to health care consumers (Medisavers: Page 2);

entering and publishing on a data source (i) the identification data provided by the health

care providers (Medisavers: Pages 2 and 13) (ii) the savings available for various treatment and

medication types under the plan (Medisavers: Pages 4 and 8—"Sample Price Comparisons"),

(iii) a specific example of a billing of health care service under the plan showing the regular

price for a particular health care service, the discounted price for that health care service, a

savings difference saved under the plan, a service fee percentage, an administrative charge debit

charged by the plan calculated by applying the service fee percentage to the savings difference,

the specific examples serving to highlight how a consumer who uses the plan saves the savings

difference less the administrative charge debit (Medisavers: Page 4), (iv) a statement asserting an

absence of any monthly fees, for said treatment type of health care services, administrative

charge representing a premiums, co-payments or claim forms (Medisavers: Page 4), and (v) a

membership enrollment kit to join the plan, said data source operated and supported by a

computer of the plan, said administrative charge debit arrived at by applying a service fee

percentage to the savings difference (Medisavers: Page 4: "Join Medisavers");

issuing a health care savings plan card to each health care consumer who has agreed to

participate in the plan (Medisavers: Page 9, Paragraph 6); and

implementing the plan so that for each provision of health care services,

(a) a health care consumer accesses the data and selects a health care provider (Medisavers: Page

10);

(b) the health care consumer presents a health care savings plan card to the selected health care

provider and receives a treatment type of health care services from that health care provider

(Medisavers: Page 4);

(c) the health care provider electronically transmits an invoice for health care services provided

by the health care provider to the computer of the plan owner for the treatment type of health

care services provided to the health care consumer (Medisavers: Page 4);

(d) the plan owner electronically transmits a debit to the credit card company of the health care

consumer for the treatment type of health care services at the regular price (Medisavers: Page 4);

(e) the plan owner electronically transmits a credit to the credit card company of the health care

consumer, said credit representing a savings difference minus an administrative charge debit to

the credit card company of the health care consumer, said saving difference being a difference

between the regular price for said treatment type of health care services and the discounted price

for said treatment type of health care services, said administrative charge debit representing a

service fee percentage applied by the plan owner to the savings difference (Medisavers: Page 4);

(f) the health care consumer pays to the credit card company a sum equal to the debit less the

credit (Medisavers: Page 4);

(g) the credit card company pays to the plan owner the sum of the debit less the credit, said sum

being further reduced by a credit card fee (Medisavers: Page 4); and

(h) the plan owner pays the health care provider entity the discounted price for said health care

services and retains the administrative charge debit (Medisavers: Page 4).

Medisavers does not teach the step of updating the data as changes in a status of any of

the plurality of health care providers occur, however, the examiner takes Official Notice that this

feature is well known in the art. At the time of the invention, it would have been obvious to

modify the method of Medisavers with the aforementioned feature with the motivation of

providing more accurate and up to date information for users of the database of healthcare providers.

(B)   As per claim 2, in the method of Medisavers the data source is a web site connected to and accessible by a health care consumer through a global communications network (Medisavers: Page 2).

(C)   As per claim 3, in the method of Medisavers the data source is a computer operated by a human who upon oral request from a health care consumer searches and retrieves data from said data source and provides said data to the health care consumer (Medisavers: Page 7).

(D)   As per claim 4, in the method of Medisavers a pool of health care service providers participating in the plan includes physicians, dentists, optometrists, opticians and ancillary medical care personnel (Medisavers: Page 5).

(E)   As per claim 5, in the method of Medisavers for the health care service providers who are pharmacists the step of entering and publishing does not include a specific example of a billing of health care service under the plan (Medisaver: Page 4; Note: Pharmacists by their nature dispense goods (prescriptions) and do not provide services so if the billing example in Medisaver was for a pharmacist it would be definition be for a good (prescription) and not a service).

(F)   As per claim 6, in the method of Medisaver the service fee percentage is between approximately 25% and approximately 33% (Medisaver: Page 4).

(G)   As per claim 7, in the method of Medisaver the specified discounted price is uniform for a particular geographic area (Medisaver: Page 2)

(H)   As per claim 8, in the method of Medisaver the service fee percentage is between approximately 25% and approximately 33% (Medisaver: Page 4).

(I)   As per claim 9, Medisavers teaches a method of operating a health care savings plan

without a monthly fee by a plan owner that acts as a vendor in relation to a credit card company

(Medisaver: Page 2), comprising:

configuring the plan to serve a plurality of health care service providers who have

mutually agreed to participate in the plan by providing health care services at a specified

discounted price for specified services, have agreed to sign a respective plurality of uniform

provider agreements that state the amount of the discounted price for the specified services and

have agreed to provide identification data either in their own right as health care providers or for

individual health care providers under their administrative control, which identification data will

be made available to health care consumers (Medisavers: Page 2);

entering and publishing on a web site connected to and accessible through a global

communications network (i) the identification data provided by the health care providers

(Medisavers: Pages 2 and 13) (ii) the savings available for various treatment and medication

types under the plan (Medisavers: Pages 4 and 8), (iii) a specific example of a billing of health

care service under the plan showing the regular price for a particular health care service, the

discounted price for that health care service, a savings difference saved under the plan, a service

fee percentage, an administrative charge debit charged by the plan calculated by applying the

service fee percentage to the savings difference, the specific examples serving to highlight how a

consumer who uses the plan saves the savings difference less the administrative charge debit

(Medisavers: Page 4), (iv) a statement asserting an absence of any monthly fees, premiums, co-

payments or claim forms (Medisavers: Page 2), and (v) a membership enrollment kit to join the

plan, said web site operated and supported by a computer of the plan, said administrative charge

debit arrived at by applying a service fee percentage to the savings difference (Medisavers: Page

2—"Join Medisavers");

issuing a health care savings plan card to each health care consumer who has agreed to

participate in the plan (Medisavers: Page 4 and Page 9, Paragraph 6); and

implementing the plan so that for each provision of health care services,

(a) a health care consumer accesses the data and selects a health care provider (Medisavers:

Pages 2 and 4);

(b) the health care consumer presents a health care savings plan card to the selected health care

provider and receives a treatment type of health care services from that health care provider

(Medisavers: Page 4); (c) while the health care consumer is at the office of the health care

provider the health care provider electronically transmits an invoice for the treatment type of

health care services provided by the health care provider to the computer of the plan owner for

the treatment type of health care services provided to the health care consumer (Medisavers:

Page 4),

(e) the plan owner electronically transmits a debit to the credit card company of the health care

consumer for the treatment type of health care services at the regular price (Medisavers: Page 4);

(f) the plan owner electronically transmits a credit to the credit card company of the health care

consumer, said credit representing a savings difference minus an administrative charge debit to

the credit card company of the health care consumer, said saving difference being a difference

between the regular price for said treatment type of health care services and the discounted price

for said health care services, said administrative charge debit representing a service fee

percentage applied by the plan owner to the savings difference (Medisavers: Page 4);

(g) the health care consumer pays to the credit card company a sum equal to the debit less the

credit (Medisavers: Page 4);

(h) the credit card company pays to the plan owner the sum of the debit less the credit, said sum

being further reduced by a credit card fee (Medisavers: Page 4); and

(i) the plan owner pays the health care provider entity the discounted price for said treatment

type of health care services and retains the administrative charge debit (Medisavers: Page 4).

Medisavers does not teach the following features: updating the data as changes in a status

of any of the plurality of health care providers occur, an invoice including a provider

identification number, a member identification number, a date of service, a procedure code for

the treatment type and an amount of the regular price of the health care provider for the treatment

type, said computer of the plan owner having stored therein a database including data concerning

health care consumers, health care providers and fee schedules; and (d) the computer of the plan

owner searches a database of credit card data for the health care consumer to determine if a

credit card account of the health care consumer has in it an amount at least equal to the regular

price of the health care provider for the treatment type, wherein if the determination is

affirmative the computer, calculates a savings difference, a credit, and an administrative charge

debit and issues an authorization number to the health care provider and if the determination is

negative the computer advises the health care provider so that the health care provider can

request payment by cash. However the examiner takes Official Notice with respect to these

aforementioned features being well-known in the art.

At the time of the invention, it would have been obvious to modify the method of

Medisavers with the aforementioned feature with the motivation of providing more accurate and

up to date information for users of the database of healthcare providers.

With regard to the details of the invoice, at the time of the invention, it would have been

obvious for one of ordinary skill in the art to have included these features in the method of

Medisavers with the motivation of providing a more efficient and accurate means of processing

health care invoices.

With regard to step (d), at the time of the invention it would have been obvious for one of

ordinary skill in the art to have included a credit verification means in the method of Medisavers

with the motivation of providing the health care provider with a means of ensuring that they

promptly received payment for the goods or services they had rendered or disbursed.

(J)   As per claim 10, in the method of Medisavers the data source is a web site connected to

and accessible by a health care consumer through a global communications network

(Medisavers: Page 2).

(K)   As per claim 11, in the method of Medisavers the data source is a computer operated by

a human who upon oral request from a health care consumer searches and retrieves data from

said data source and provides said data to the health care consumer (Medisavers: Page 7).

(L)   As per claim 12, in the method of Medisavers a pool of health care service providers

participating in the plan includes physicians, dentists, optometrists, opticians and ancillary

medical care personnel (Medisavers: Page 5).

(M)   As per claim 13, in the method of Medisavers for health care service providers who are

pharmacists the step of entering and publishing does not include a specific example of a billing

of health care service under the plan (Medisaver: Page 4; Note: Pharmacists by their nature

dispense goods (prescriptions) and do not provide services so if the billing example in Medisaver

was for a pharmacist it would be definition be for a good (prescription) and not a service).

(N)   As per claim 14, in Medisavers the service fee percentage is between approximately

25% and approximately 33% (Medisavers: Page 4).

(O)   As per claim 15, in Medisavers the specified discounted price is uniform for a particular

geographic area (Medisavers: Page 2).

(P)   As per claim 16, in Medisavers the service fee percentage is between approximately 25%

and approximately 33% (Medisavers: Page 4).

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

       US Patent Number 6,208,973 to Boyer teaches a point of service third party financial

management vehicle for the healthcare industry.

5.   Any inquire concerning this communication or earlier communications from the

examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109.

The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

       If any attempt to reach the examiner by telephone is unsuccessful, the examiner's

supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone number for

this group is (703) 305-7687 (for official communications including After Final communications

labeled "Box AF").

Another resource that is available to applicants is the Patent Application Information

Retrieval (PAIR). Information regarding the status of an application can be obtained from the

(PAIR) system. Status information for published applications may be obtained from either

Private PAIR or Public PAX. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, please feel

free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,

Vivek Koppikar

1/10/2006

C. LUKE GILLIGAN
PATENT EXAMINER